

REQUEST FOR QUALIFICATIONS



Department of Executive Services
Finance and Business Operations Division
Procurement and Contract Services Section
206-684-1681 TTY Relay: 711

DATE ADVERTISED: **September 28, 2006**

RFQ Title: **Election's Facility, Non-Profit 63-20 Facilitator for Lease / Leaseback Structure**

Requesting Dept./ Div.: **King County Department of Executive Services – Facilities Management Division**

RFQ Number: **132-06RLD**

Due Date: **October 12, 2006 – no later than 2:00 P.M.**

Buyer: **Roy L. Dodman** roy.dodman@metrokc.gov, (206) 263-4266

There will be no Pre-Submittal Conference for this RFQ

Sealed Qualification Submittals are hereby solicited and will **ONLY** be received by

**King County Procurement Services Section
Exchange Building, 8th Floor
821 Second Avenue
Seattle, WA 98104-1598**

Office Hours - 8:00 a.m. - 5:00 p.m.
Monday - Friday

SUBMITTERS MUST COMPLETE AND SIGN THE FORM BELOW (TYPE OR PRINT)

Company Name		
Address		City/State/Zip Code
Signature	Authorized Representative / Title	
E-mail	Phone	Fax

This Request for Qualifications will be provided in alternative formats such as Braille, large print, audio cassette or computer disk for individuals with disabilities upon request.

If you received or downloaded this document in .pdf format, a MS Word copy may be obtained by contacting the buyer listed above. This MS Word document will be transmitted by e-mail.

Sealed qualification submittals are hereby solicited and will be received only at the office of the King County Procurement Services Section at 821 Second Avenue, 8th Floor, Seattle, Washington, 98104 no later than 2 p.m. on the date noted above regarding a qualified *Non-Profit Entity to help facilitate King County's entry into a tax exempt lease / leaseback financing structure* for the *King County Department of Executive Services*. These services shall be provided to King County in accordance with the following and the attached instructions, requirements, and specifications.

Submittal: King County requires the Submitter to sign and return *this entire Request for Qualification (RFQ) document*. The Submitter shall provide *one unbound original* and *three (3) copies* of the submittal response, data or attachments offered, for *four (4) items* total. The original in both cases shall be noted or stamped "Original".

Questions: Submitters will be required to submit any questions in writing prior to the close of business Thursday, October 5, 2006 in order for staff to prepare any response required to be answered by Addendum. Questions are best received and most quickly responded to when sent via e-mail directly to the following King County procurement personnel: *Primary* – Roy L. Dodman, Senior Buyer roy.dodman@metrokc.gov / *Secondary* – Cathy M. Betts, Buyer cathy.betts@metrokc.gov. Questions may also be sent via email to the address above.

SECTION I – GENERAL INFORMATION

- A. King County is an Equal Opportunity Employer and does not discriminate against individuals or firms because of their race, color, creed, marital status, religion, age, sex, national origin, sexual orientation, or the presence of any mental, physical or sensory handicap in an otherwise qualified handicapped person.
- B. All submitted qualifications and evaluation materials become public information and may be reviewed by appointment by anyone requesting to do so *at the conclusion* of the evaluation, negotiation, and award process. This process is concluded when a signed contract is completed between King County and the selected Applicant. Please note that if an interested party requests copies of submitted documents or evaluation materials, a standard King County copying charge per page must be received prior to processing the copies. King County *will not* make available photocopies of pre-printed brochures, catalogs, tear sheets or audio-visual materials that are submitted as support documents with qualification submittals. Those materials will be available for review at King County Procurement.
- C. No other distribution of qualifications will be made by the Applicants prior to any public disclosure regarding the RFQ, the submittal or any subsequent awards without written approval by King County. For this RFQ all qualification submittals received by King County shall remain valid for ninety (90) days from the date of submittal. All submittals received in response to this RFQ will be retained.
- D. Submittals shall be prepared simply and economically, providing a straightforward and concise but complete and detailed description of the Applicant abilities to meet the requirements of this RFQ. Fancy bindings, colored displays and promotional materials are not desired. Emphasis shall be on completeness of content.
- E. King County reserves the right to reject any qualification submittals deemed not responsive to its needs.
- F. In the event it becomes necessary to revise any part of this RFQ, addenda shall be created and posted at the King County Procurement web site. Addenda will also be conveyed to those potential submitters providing an accurate e-mail address. If desired, a hard copy of any addenda may be provided upon request.
- G. King County is not liable for any cost incurred by the Applicant prior to issuing the contract.
- H. A contract may be negotiated with the Applicant whose qualifications would be most advantageous to King County in the opinion of the King County Department of Executive Services, all factors considered. King County reserves the right to reject any or all qualification submittals.
- I. If a selection is made as a result of this RFQ, it will be based on the highest ranked Applicant. This RFQ is primarily designed to identify the most qualified submitter.

- J. The contents of the qualification submittal of the selected Applicant shall become contractual obligations if a contract ensues. Failure of the Applicant to accept these obligations may result in cancellation of their selection.
- K. A contract between the Applicant and King County shall include all documents mutually entered into specifically including the contract instrument, the original RFQ *as issued* by King County, and the response to the RFQ. The contract must include, and be consistent with, the specifications and provisions stated in the RFQ.
- L. News releases pertaining to this RFQ, the services, or the project to which it relates, shall not be made without prior approval by, and then only in coordination with, the King County Department of Executive Services.
- M. King County Code 4.16.025 prohibits the acceptance of any bid, proposal or submittal after the time and date specified on the Request for Qualifications. There shall be no exceptions to this requirement.
- N. King County agencies' staffs are prohibited from speaking with potential Applicants about the project during the solicitation.

Please direct all questions to:

Roy L. Dodman / Senior Buyer
(206) 263-4266
roy.dodman@metrokc.gov

or Cathy M. Betts / Buyer
(206) 263-4267
cathy.betts@metrokc.gov

NOTE: Documents and other information is available in alternate formats for individuals with disabilities upon advance request by calling Mary Lou Allwine at 206-296-4210 or TTY711.

- O. Protest Procedure - King County has a process in place for receiving protests based upon either bids, proposals, submittals, or contract awards. If you would like to receive or review a copy, please contact the Buyer named on the front page of this document or call Procurement Services at 206-684-1681.
- P. Electronic Commerce and Correspondence. King County is committed to reducing costs and facilitating quicker communication to the community by using electronic means to convey information. As such, most Invitations to Bid, Requests for Proposal, and Requests for Qualifications, as well as related exhibits, appendices, and issued addenda can be found on the King County Internet Web Site, located at <http://www.metrokc.gov/procurement>. Please refer to the "RFPs, RFQs & ITBs / New / Consultants" portion of the site (note: some documents or portions thereof may not be posted on the site. Please note any special messages regarding a particular solicitation). This information is posted at the Web Site as a *convenience* to the public, and is not intended to replace the King County process of formally requesting bid documents and providing the County with contact information for the potential Applicant. Each Applicant bears the responsibility to confirm the completeness and accuracy of all documents pertaining to a given solicitation, including the receipt of all issued addenda.

If an Applicant downloads a document from the Web Site and does not contact the Procurement Office to obtain a hard copy, the Applicant *must* register with the County via the Procurement website. To register, access "Contact Us" on the left side of the screen, then "Vendor Registration". As this point you will need to submit complete information regarding your company and primary contact, as well as additional information you feel is relevant. Please note which document/documents were downloaded.

After submittals have been opened in public, the County will post a listing of the consultants submitting qualifications at the King County Internet site. Please refer to the "RFPs, RFQs & ITBs / Awarded / Consultants" portion of the site for a listing, as well as a notification of a final determination.

Unless otherwise requested, letters and other transmittals pertaining to this RFQ will be issued to the e-mail address noted in our files, and after submittal, noted on the first page of this document. If other personnel should be contacted via e-mail in the evaluation of this submittal, or to be notified of evaluation results, please complete the information in the table below.

Contact Name	Title	Phone	E-mail address

- Q. Washington State Public Disclosure Act (RCW 42.17) requires public agencies in Washington to promptly make public records available for inspection and copying unless they fall within the specified exemptions contained in the Act, or are otherwise privileged.
- R. Qualifications submitted under this RFQ shall be considered public documents and with limited exceptions qualification submittals that are recommended for contract award will be available for inspection and copying by the public. King County may request an electronic copy of your submittal response at a later time for this purpose. This copy may be requested in MS Word format, and delivered either by e-mail or directly delivered on CD.

If an Applicant considers any portion of his/her submittal to be protected under the law, the Applicant shall clearly identify on the page(s) affected such words as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." The Applicant shall also use the descriptions above in the following table to identify the effected page number(s) and location(s) of any material to be considered as confidential (attach additional sheets as necessary). If a request is made for disclosure of such portion, the County will determine whether the material should be made available under the law. If the material is not exempt from public disclosure law, the County will notify the Applicant of the request and allow the Applicant ten (10) days to take whatever action it deems necessary to protect its interests. If the Submitter fails or neglects to take such action within said period, the County will release the portion of the submittal deemed subject to disclosure. By submitting qualifications, the Applicant assents to the procedure outlined in this paragraph and shall have no claim against the County on account of actions taken under such procedure.

Type of exemption	Beginning Page / Location	Ending Page / Location

- U. Applicants are urged to use recycled/recyclable products and both sides of paper for printed and photocopied materials, whenever practicable, in preparing responses to this RFQ.
- V. During the solicitation process, King County strongly discourages the transmittal of Company information, brochures, and other promotional materials, other than address, contact and e-mail information, prior to the due date of proposals. Any pre-packaged material received by a potential applicant prior to the receipt of qualifications shall not be reviewed by the County.
- W. Bid Identification Label: Please see the Bid Identification Label on the last page of this document.

SECTION II – PROJECT SPECIFICATIONS AND SCOPE OF WORK.

A. Introduction

King County, via this Request for Qualifications, is seeking a qualified non-profit entity (“Non-Profit”) to help facilitate King County’s entry into a tax exempt lease / leaseback financing structure – sometimes referred to as a “63-20 financing and delivery method.”

1. Lease / Leaseback Authorized by RCW 36.34.205

As authorized by RCW 36.34.205, the County can have an election facility built for County use on a County-owned site by means of a lease-leaseback transaction under RCW 35.42.070-.090. This statute says that the leaseback to the County “shall contain terms as agreed upon between the parties,” but sets forth four required provisions:

- a. No part of the cost of construction of the building shall ever be or become an obligation of the County;
- b. The County shall have a prior right to occupy any or all of the building upon payment of rental, as agreed upon by the parties, which rental shall not exceed prevailing rates for comparable space;
- c. During the time that all of any portion of the building is not required for occupancy by the County, the lessee of the land may rent the unneeded portion to suitable tenants approved by the County; and,
- d. Upon the expiration of the lease, all buildings and improvements on the land shall become the property of the County

The King County Code contains similar lease-leaseback requirements at KCC 4.56.160(E).

In addition to the foregoing, the lease-leaseback statute requires that the lease arrangement be made “pursuant to a call for bids upon terms most advantageous to the (County).” RCW 35.42.080. Because this statutory language does not require that the lease arrangement be made with the lowest responsible bidder, it expressly differs in this respect from the conventional public bid process.

As a result, King County fashioned an RFP public competitive process for obtaining the best possible development package deal for the County. Pursuant to the results of King County’s Request for Proposal number RFP 204-06RLD, Scannell Properties was selected as the developer to plan, design, and construct a build-to-suit, lease-to-own elections facility, including some parking, this will supply King County with approximately 150,000 of rentable square feet of rentable space. Scannell Properties has agreed to work closely with the representatives of the selected Non-Profit in negotiating the development agreement and crafting final documentation.

2. The Non-Profit

King County is soliciting the services of a Non-Profit entity that will help expedite this transaction. Such a Non-Profit will, with appropriate County approval, issue its own tax-exempt bonds under the provisions of Revenue Ruling 63-20 of the IRS. Such 63-20 bonds will be secured by the County’s lease of the Project from the Non-Profit.

3. Anticipated Deal Structure:

Upon closing of the transaction, it is anticipated that the legal structure of the Project will be as follows: King County will long term master lease the site to the Non-Profit for the purpose of expediting this Project. The Non-Profit will enter into a guaranteed maximum price (GMP) development agreement with Scannell Properties for design and construction of the Project. The Non-Profit will issue tax-exempt bonds in an amount sufficient to pay for design, construction and financing of the Project. Scannell Properties will make draws from the Non-Profit to pay for construction costs during the construction period. Upon completion of the construction, the Non-Profit will “lease-back” all Project improvements to King County. At the end of the lease term, the Non-Profit will convey title to the Project to King County.

4. Disclaimer:

The information in this RFQ has been prepared with care, but mistakes are always a possibility. Therefore, each potential respondent is responsible to perform its own review and due diligence of the facts and assumptions that are identified in this RFQ.

B. Project Expectations:

This Project will be highly visible. King County expects that the Project will be highly functional, efficient, safe and secure; will incorporate quality systems and materials; will be energy efficient with low operating and maintenance costs; will meet design needs of the Election's Office; and will offer excellent economic value.

C. Response to this RFQ

This section provides information necessary to understand the selection process.

Each responding non-profit to this RFQ shall submit one (1) unbound original Response (marked as such) and three (3) copies. Copies may be comb-bound. At the County's sole discretion, the Selection Committee reserves the right to request additional information.

1. Submission Requirements

- a. Who is the Non-Profit? Identify legal demarcation and history.
- b. What experience does the Non-Profit and its employees have in the types of 63-20 transactions described above? Attach appropriate resume and narrative description.
- c. What resources, financial, legal and otherwise, do the Non-Profit have available in expediting the proposed transaction?
- d. Has the Non-Profit worked with King County in the past? Identify.
- e. Has the Non-Profit worked with other public entities in the past? Identify.
- f. Has the Non-Profit worked with Scannell Properties in the past? Identify.

2. Submittal Evaluation

Each non-profit's qualification package will be evaluated by a selection committee ("Non-Profit RFQ Selection Committee") comprised of King County staff and consultants. The Non-Profit RFQ Selection Committee will select the highest ranked Response based on the following evaluation criteria. King County reserves the right to reject any and/or all Responses.

The Selection Committee, in evaluating submittals, will use the following criteria:

- Qualifications and Experience	50 points
- Financial and Legal Resources	20 points
- Successful History with King County	10 points
- Successful History with Other Public Entities	10 points
- Successful History with Scannell Properties	10 points

Total 100 points

3. Interview

If an award is not made based on the written evaluation alone, King County may elect to conduct interviews with the top ranked submitters. If interviews are conducted, they will be worth a maximum of 40 points. Final award would then be based on the total of the written evaluation and interview points.

4. Notification

King County shall provide notification, via e-mail, to each submitter regarding the status of the solicitation.

D. Submittal Preparation**1. General Requirements:**

This procurement will be in accordance with King County and other applicable federal, state and local laws, regulations and procedures.

E. Other Information

All facts and opinions stated within this RFQ, and all supporting documents and data, are based on information available from a variety of sources. Additional information may be made available via written addenda throughout the process. No representation or warranty is made with respect thereto.

All submittals shall be submitted as set forth in this RFQ. Submittals that are not in accordance with the procedures and specified requirements stated herein may be considered "non-responsive" and will be subject to rejection by the County. All costs incurred in the preparation of the submittal and in the submittal process shall be borne by the proposing Applicants. The County shall not reimburse Applicants for such costs.

SECTION III - NONDISCRIMINATION AND AFFIRMATIVE ACTION

The following sections include standard King County terms and conditions. Some or all of the information contained in these sections may become part of the final contract document.

PART 1: NON-DISCRIMINATION

- A. King County Code Chapters 12.16, 12.17 and 12.18 are incorporated by reference as if fully set forth herein and such requirements apply to this Contract; provided however, that no specific levels of utilization of minorities and women in the workforce of the Applicant shall be required, and the Applicant is not required to grant any preferential treatment on the basis of race, sex, color, ethnicity or national origin in its employment practices; and provided further that, notwithstanding the foregoing, any affirmative action requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents shall continue to apply.
- B. During the performance of this Contract, neither the Applicant nor any party subcontracting under the authority of this Contract shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Contract.
- C. The Applicant shall, prior to the commencement of the work and during the term of this Contract, furnish the County, upon request and on such forms as may be provided by the County, a report of the affirmative action taken by the Applicant in implementing the terms of this section. The Applicant will permit access by the County to the Applicant's records of employment, employment advertisements, application forms, other pertinent data and records related to this Contract for the purpose of monitoring and investigation to determine compliance with these requirements.
- D. The Applicant shall implement and carry out the obligations contained in its Affidavit and Certificate of Compliance regarding equal employment opportunity. Failure to implement and carry out such obligations in good faith may be considered by the County as a material breach of this Contract and grounds for withholding payment and/or termination of the Contract and dismissal of the Applicant.
- E. The Applicant shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, RCW Chapter 49.60 and Titles VI and VII of the Civil Rights Act of 1964.
- F. During the performance of this Contract, neither the Applicant nor any party subcontracting under the authority of this Contract shall engage in unfair employment practices. It is an unfair employment practice for any:
 - 1. Employer or labor organization to discriminate against any person with respect to referral, hiring, tenure, promotion, terms, conditions, wages or other privileges of employment;
 - 2. Employment agency or labor organization to discriminate against any person with respect to membership rights and privileges, admission to or participation in any guidance program, apprenticeship training program, or other occupational training program;
 - 3. Employer, employment agency, or labor organization to print, circulate, or cause to be printed, published or circulated, any statement, advertisement, or publication relating to employment or membership, or to use any form of application therefor, which indicates any discrimination unless based upon a bona fide occupation qualification;
 - 4. Employment agency to discriminate against any person with respect to any reference for employment or assignment to a particular job classification;
 - 5. Employer, employment agency or a labor organization to retaliate against any person because this person has opposed any practice forbidden by KCC Chapter 12.18 or because that person has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing initiated under the provisions of KCC Chapter 12.18;

6. Publisher, firm, corporation, organization or association printing, publishing or circulating any newspaper, magazine or other written publication to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of KCC Chapter 12.18.030C., or to segregate and separately designate advertisements as applying only to men and women unless such discrimination is reasonably necessary to the normal operation of the particular business, enterprise or employment, unless based upon a bona fide occupational qualification; and/or
7. Employer to prohibit any person from speaking in a language other than English in the workplace unless:
 - a. The employer can show that requiring that employees speak English at certain times is justified by business necessity, and
 - b. The employer informs employees of the requirement and the consequences of violating the rule.

PART 2: REQUIRED SUBMITTALS

- A. All Applicants entering into a contract or agreement with King County valued at \$25,000 or more shall, after the Applicant receives written notice of selection, submit the following:
 1. A Personnel Inventory Report on the form provided by the County.
 2. An Affidavit of Compliance demonstrating the Applicant's commitment to comply with the provisions of KCC Chapter 12.16.
 3. A Sworn Statement of Compliance with 12.16 from any labor union or employee referral agency which refers workers or employees or provides or supervises training programs from whom the Applicant obtains employees.
- B. The County will not execute any agreement or contract without prior receipt of fully executed forms listed in subparagraph A above.
- C. Assistance with the requirements of this Section and copies of Chapters 12.16, 12.17 and 12.18 are available from the Business Development & Contract Compliance (BDCC) Section, phone (206) 205-0700.

PART 3: NONDISCRIMINATION IN SUBCONTRACTING PRACTICES

- A. Compliance with Initiative 200. In accordance with the provisions of Washington Initiative 200, no County Minority and Women Business (M/WBE) utilization requirements shall apply to this Contract. No minimum level of M/WBE sub-contractor participation or purchase from M/WBE certified vendors is required and no preference will be given by the County to a bidder, proposer or submitter for their M/WBE utilization or M/WBE status. Provided, however, that any affirmative action requirements set forth in any federal regulations or statutes included or referenced in the Contract documents will continue to apply.
- B. Non-Discrimination. During the term of this Contract, the Applicant shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with sub-contractors and suppliers, the Applicant shall not discriminate against any person on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

During the performance of work performed under any Agreement resulting from this RFQ, neither the Applicant nor any party subcontracting under the authority of the agreement shall discriminate or engage in unfair contracting practices prohibited by K.C.C. 12.17.

- C. Record-Keeping Requirements. The Applicant shall maintain, for at least 6 years after completion of all work under this contract, records and information necessary to document its level of utilization of M/WBEs and other businesses as sub-contractors and suppliers in this contract and in its overall public and private business activities for the same period. The Applicant shall also maintain, for at least 6 years after completion of all work under this contract, all written quotes, bids, estimates or proposals submitted to the Applicant by all businesses seeking to participate on this Contract. Applicant shall make such documents

available to the County for inspection and copying upon request. If this contract involves federal funds, Applicant shall comply with all record keeping requirements set forth in any federal rules, regulations or statutes included or referenced in the contract documents.

D. Open Competitive Opportunities. King County encourages the utilization of minority owned businesses ("MBEs") and women-owned businesses ("WBEs")(collectively, "M/WBEs") in County contracts. The County encourages the following practices to promote open competitive opportunities for small businesses including M/WBEs:

1. Attending a pre-bid or pre-solicitation conference, if scheduled by the County, to provide project information and to inform M/WBEs and other firms of contracting and subcontracting opportunities.
2. Placing all qualified small businesses attempting to do business in King County, including M/WBEs, on solicitation lists, and providing written notice of subcontracting opportunities to M/WBEs and all other small businesses capable of performing the work, including without limitation all businesses on any list provided by the County, in sufficient time to allow such businesses to respond to the written solicitations.
3. Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses including M/WBEs.
4. Establishing delivery schedules, where the requirements of this contract permit, that encourage participation by small businesses, including M/WBEs.
5. Providing small businesses including M/WBEs that express interest with adequate and timely information about plans, specifications, and requirements of the contract.
6. Utilizing the services of available community organizations, consultant and contractor groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses including M/WBEs.

Further, the County encourages small businesses, including M/WBEs, to participate in the following practices to promote open competitive opportunities:

1. Attending a pre-bid or pre-solicitation conference, if scheduled by the County, to receive project information and to inform prime bidders/proposers of contracting and subcontracting capabilities.
2. Requesting placement on solicitation lists, and receipt of written notice of subcontracting opportunities.
3. Utilizing the services of available community organizations, consultant and contractor groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses and M/WBEs.

E. Sanctions for Violations. Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of contract for which the Applicant may be subject to damages and sanctions provided for by contract and by applicable law.

PART 4: REQUIREMENTS DURING WORK

A. Site Visits

King County may at any time visit the site of the work and the Applicant's office to review records related to actual utilization of and payments to subcontracting firms. The Applicant shall maintain sufficient records necessary to enable King County to review utilization of subcontracting firms. The Applicant shall provide every assistance requested by King County during such visits.

PART 5: COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED AND THE AMERICANS WITH DISABILITIES ACT OF 1990

The Applicant shall complete a Disability Self-Evaluation Questionnaire for all programs and services offered by the Applicant (including any services not subject to this Contract) and shall evaluate its services, programs and employment practices for compliance with Section 504 of the Rehabilitation Act of 1973, as amended

("504"), and the Americans with Disabilities Act of 1990 ("ADA"). The Applicant shall complete a 504/ADA Disability Assurance of Compliance prior to execution of a contract.

SECTION IV - GENERAL CONTRACT REQUIREMENTS

PART 1: TERMINATION CLAUSES

- A. This Contract may be terminated by the County without cause, in whole or in part, upon providing the Applicant ten (10) calendar days' advance written notice of the termination.

If the Contract is terminated pursuant to this Section IV, paragraph A: (1) the County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and (2) the Applicant shall be released from any obligation to provide further services pursuant to the Contract.

- B. The County may terminate this Contract, in whole or in part, upon five (5) calendar days' advance written notice in the event: (1) the Applicant materially breaches any duty, obligation, or services required pursuant to this Contract, or (2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

If the Contract is terminated by the County pursuant to this Subsection IV(B) (1), the Applicant shall be liable for damages, including any additional costs of procurement of similar services from another source.

If the termination results from acts or omissions of the Applicant, including but not limited to misappropriation, nonperformance of required services or fiscal mismanagement, the Applicant shall return to the County immediately any funds, misappropriated or unexpended, which have been paid to the Applicant by the County.

- C. If expected or actual funding is withdrawn, reduced or limited in any way prior to the termination date set forth above in Section II or in any amendment hereto, the County may, upon written notice to the Applicant, immediately terminate this Contract in whole or in part.

If the Contract is terminated pursuant to this Section IV, paragraph C: (1) the County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and (2) the Applicant shall be released from any obligation to provide further services pursuant to the Contract.

Funding under this Contract beyond the current appropriation year is conditional upon appropriation by the County Council of sufficient funds to support the activities described in this Contract. Should such an appropriation not be approved, this contract will terminate at the close of the current appropriation year.

- D. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Contract or law that either party may have in the event that the obligations, terms and conditions set forth in this Contract are breached by the other party.

PART 2: INDEMNIFICATION AND HOLD HARMLESS

- A. In providing services under this Contract, the Applicant is an independent contractor, and neither the Applicant nor its officers, agents or employees are an employee of the County for any purpose. The Applicant shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits or taxes to, or on behalf of, the Applicant, its employees or others by reason of this Contract. The Applicant shall protect, indemnify and save harmless the County, its officers, agents and employees from and against any and all claims, costs and/or losses whatsoever occurring or resulting from 1) the Applicant's failure to pay any such compensation, wages, benefits or taxes; and 2) the supplying to the Applicant of work, services, materials and/or supplies by Applicant employees or other suppliers in connection with the performance of this Contract.

- B. The Applicant further agrees that it is financially responsible for and shall repay the County all indicated amounts following an audit exception which occurs due to the negligence, intentional acts or failure for any reason to comply with the terms of this Contract by the Applicant, its officers, employees, agents and/or representatives. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Duration of Contract, or the Termination section.
- C. The Applicant shall protect, defend, indemnify, and save harmless the County, [and the State of Washington (when any funds for this Contract are provided by the State of Washington)] their officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the Applicant, its officers, employees, and/or agents. The Applicant agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose, the Applicant by mutual negotiation, hereby waives, as respects the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event that County incurs attorney fees and/or costs in the defense of claims, for damages within the scope of this section, such fees and costs shall be recoverable from the Applicant. In addition King County shall be entitled to recover from the Applicant fees, and costs incurred to enforce the provisions of this section.

Claims shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in unfair trade practice.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this agreement.

PART 3: INSURANCE

Any insurance requirements will be discussed and negotiated with the successful submitter.

PART 4: CORRECTIVE ACTION

If the County determines that a breach of contract has occurred, that is the Applicant has failed to comply with any terms or conditions of this Contract or the Applicant has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure will apply:

- A. The County will notify the Applicant in writing of the nature of the breach;
- B. The Applicant shall respond in writing within three (3) working days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which date shall not be more than ten (10) days from the date of the Applicant's response; unless the County, at its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions;
- C. The County will notify the Applicant in writing of the County's determination as to the sufficiency of the Applicant's corrective action plan. The determination of sufficiency of the Applicant's corrective plan shall be at the sole discretion of the County;
- D. In the event that the Applicant does not respond within the appropriate time with a corrective action plan, or the Applicant's corrective action plan is determined by the County to be insufficient, the County may commence termination of this Contract in whole or in part pursuant to Section IV.B;
- E. In addition, the County may withhold any payment owed the Applicant or prohibit the Applicant from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed; and
- F. Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section IV, Termination Clauses, Subsections A, B, C, and D.

PART 5: ASSIGNMENT/SUBCONTRACTING

- A. The Applicant shall not assign or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the written consent of the County. Said consent must be sought in writing by the Applicant not less than fifteen (15) calendar days prior to the date of any proposed assignment.
- B. "Subcontract" shall mean any agreement between the Applicant and a Subcontractor or between Subcontractors that is based on this Contract, provided that the term "subcontract" does not include the purchase of (i) support services not related to the subject matter of this contract, or (ii) supplies.

SECTION V - ADDITIONAL INFORMATION & REQUIREMENTS

- A. Domestic Partner Benefits (*Non-Discrimination in Benefits*):

King County's Domestic Partner Benefits (DPB) Ordinance 14823 prohibits the award of contracts valued at \$25,000.00 or more to firms that discriminate in the provision of employee benefits between employees with spouses, and employees with domestic partners. To be eligible for award, Contractors shall comply fully with the ordinance's provisions. Within five (5) days of notification of intent to award, and as a condition of the execution of a contract, the successful bidder/proposer shall provide to King County Procurement & Contract Services Section a completed DPB "Declaration" form (see last page of this document). The DPB Ordinance and Declaration Form are available online at <http://www.metrokc.gov/procurement/forms/default.aspx>

- B. Disclosure – Conflict of Interest

King County Code Chapter 3.04 is incorporated by reference as if fully set forth herein and the Applicant agrees to abide by all the conditions of said Chapter. Failure by the Applicant to comply with any requirements of this Chapter shall be a material breach of contract.

1. The Applicant covenants that no officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and implementation of the scope of services funded herein, or any other person who presently exercises any functions or responsibilities in connection with the planning and implementation of the scope of services funded herein shall have any personal financial interest, direct or indirect, in this Contract. The Applicant shall take appropriate steps to assure compliance with this provision.
2. If the Applicant violates the provisions of Section V (1) or does not disclose other interest required to be disclosed pursuant to King County Code Section 3.04.120, as amended, the County will not be liable for payment of services rendered pursuant to this Contract. Violation of this Section shall constitute a substantial breach of this Contract and grounds for termination pursuant to Section IV (B) above as well as any other right or remedy provided in this Contract or law.
3. The King County Board of Ethics maintains a website that provides information regarding King County ethics requirements. To review specific areas of the Code of Ethics that relate to contractors and vendors, follow this path: <http://www.metrokc.gov/ethics/>, and access 1) The Code of Ethics, "Employee Code of Ethics 3.04", and 2) Advice and Guidance "Doing Business with Contractors, Vendors, Clients and Customers". Under "Employee Code of Ethics 3.04", there are two areas of the code that speak specifically to contractors: 3.04.060 B1 (attempting to secure preferential treatment) and 3.04.120 (disclosure of interests by consultants requirement). There are other sections under conflict of interest, 3.04.030 that are directed to employees and govern their relationships with contractors.

- C. Recycled/Recyclable Products

It is the policy of King County to use recycled materials to the maximum extent practicable (King County Code Chapter 10.16). Applicants able to supply products containing recycled materials that meet performance requirements are encouraged to offer them in bids and proposals and to use them wherever possible in fulfillment of contracts.

The Applicant shall use recycled paper for the production of all printed and photocopied documents related to the fulfillment of this Contract and shall ensure that, whenever possible, the cover page of each document printed on recycled paper bears an imprint identifying it as recycled paper. If the cost of recycled paper is more than fifteen percent higher than the cost of non-recycled paper, the Applicant may notify the Contract Administrator, who may waive the recycled paper requirement. The Applicant shall use both sides of paper sheets for copying and printing and shall use recycled/recyclable products wherever practical in the fulfillment of this Contract.

D. Proprietary Rights

The parties to this Contract hereby mutually agree that if any patentable or copyrightable material or article should result from the work described herein, all rights accruing from such material or article shall be the sole property of the County. The foregoing shall not apply to existing training materials, consulting aids, check lists and other materials and documents of the Applicant which are modified for use in the performance of this Contract.

SECTION VI - MAINTENANCE OF RECORDS/AUDITS

- A. The Applicant shall maintain, and shall require any sub-contractors to maintain, accounts and records, including personnel, property, financial and programmatic records and other such records as may be deemed necessary by the County to ensure proper accounting for all project funds and compliance with this Contract. All such records shall sufficiently and properly reflect all direct and indirect costs of any nature expended and services provided in the performance of this Contract. The Applicant shall make such documents available to the County for inspection, copying, and auditing upon request.
- B. All records referenced in subsection (A) shall be maintained for a period of six (6) years after completion of work or termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14, or unless a longer retention period is required by law.
- C. The Applicant shall provide access to its facilities, including those of any sub-contractor, to the County, the state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the services provided under this Contract. The County will give advance notice to the Applicant in the case of fiscal audits to be conducted by the County.
- D. The Applicant agrees to cooperate with the County or its designee in the evaluation of services provided under this Contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluation shall be maintained and disclosed in accordance with RCW Chapter 42.17.
- E. If the Applicant received a total of \$300,000.00 or more in federal financial assistance during its fiscal year from the County, and is a non-profit organization or institution of higher learning or a hospital affiliated with an institution of higher learning, and is, under this Contract, carrying out or administering a program or portion of a program, it shall have an independent audit conducted of its financial statement and condition, which shall comply with the requirements of GAAS (generally accepted auditing standards), GAO's Standards for Audits of Governmental Organizations, Programs, Activities, and Functions and OMB Circulars A-133 and A-128, as amended and as applicable. Applicants receiving federal funds from more than one County Department or Division shall be responsible for determining if the combined financial assistance is equal or greater than \$300,000.00. The Applicant shall provide one copy of the audit report to each County division providing federal financial assistance to the Applicant no later than six (6) months subsequent to the end of the Applicant's fiscal year.

SECTION VII – REQUIRED FORMS

The following completed forms will be required from the selected contractor, prior to contract award:

- A. King County Personnel Inventory Report
- B. Affidavit and Certificate of Compliance with King County Code 12.16
- C. Statement of Compliance - Union or Employee Referral Agency Statement (if applicable)

D. 504/ADA Disability Assurance of Compliance and Corrective Action Plan

Copies of these forms are available by contacting the King County Procurement and Contract Services Division. They are available in paper form, or may be obtained via e-mail. Please contact Cathy Betts at 206-263-4267 or Roy L. Dodman at 206-263-4266, or by sending an e-mailed request to cathy.betts@metrokc.gov or roy.dodman@metrokc.gov

SECTION VIII – BID SUBMITTAL CHECKLIST

- A. One (1) signed copy of entire RFQ package.
- B. One (1) signed copy of any Addendum that was issued. (If it has signature box at bottom of first page, it must be returned.)
- C. One (1) unbound copy of qualification response marked "Original."
- D. Three (3) copies of qualification response.
- E. Complete the Bid Identification Label below (or reasonable facsimile) and attach it to a prominent place on the exterior of the submission envelope, box, etc.

U R G E N T – SEALED BID ENCLOSED Do Not Delay – Deliver Immediately	
U R G E N T	 King County King County Procurement & Contract Services Section Exchange Building, 8 th Floor 821 2nd Ave., EXC-FI-0862 Seattle, WA 98104-1598
	Bid No. 132-06RLD
	Bid Title Election Facility - Non-Profit 63-20 Facilitator
	Due Date
	Vendor
U R G E N T	